

Amendment No. 1 to HB1405

Hazlewood  
Signature of Sponsor

**AMEND Senate Bill No. 905\***

**House Bill No. 1405**

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-6-207, is amended by deleting the section and substituting instead:

(a) As used in this section:

(1) "Agricultural operations" means an activity of agriculture as defined in § 1-3-105(a)(2)(A)(i), (a)(2)(A)(ii), (a)(2)(B), and (a)(2)(C); and

(2) "Qualified farmer or nurseryman" means a person who is engaged in agricultural operations, and who meets one (1) or more of the following criteria:

(A) The person is the owner or lessee of agricultural land from which one thousand five hundred dollars (\$1,500) or more of agricultural products were produced and sold during the year, including payments from government sources;

(B) The person is in the business of providing for-hire custom agricultural services for the plowing, planting, harvesting, growing, raising, or processing of agricultural products or for the maintenance of agricultural land;

(C) The person is the owner of land that qualifies for taxation under the Agricultural Forest and Open Space Land Act of 1976, compiled in chapter 5, part 10 of this title;

(D) The person's federal income tax return contains one (1) or more of the following:

(i) Business activity on IRS schedule F, profit or loss from farming; and

(ii) Farm rental activity on IRS form 4835, farm rental income and expenses or schedule E, supplemental income and loss; or

(E) The person otherwise establishes to the satisfaction of the commissioner that the person is actively engaged in the business of raising, harvesting, or otherwise producing agricultural commodities as defined in § 67-6-301(c)(2).

(b) The sale at retail, lease, rental, use, consumption, distribution, repair, or storage for use or consumption in this state of tangible personal property, including building material, repair service, labor, warranty, software, or any other item taxable under this chapter, is specifically exempted from the tax imposed by this chapter when sold to a qualified farmer or nurseryman, if the tangible personal property is primarily used by the qualified farmer or nurseryman in agricultural operations.

(c) Persons seeking to become qualified farmers or nurserymen shall apply to the commissioner for authority to make purchases exempt from tax. This application must require information that the commissioner deems necessary. If the commissioner finds from the information that the applicant is entitled to be a qualified farmer or nurseryman, the commissioner shall issue a certificate granting the authority for a period of four (4) years, or until the applicant is no longer operating within the scope of the applicant's original application. A misrepresentation made on the application by the applicant subjects the applicant to applicable taxes, penalty, and interest.

(d) Persons who have obtained authority from the commissioner to make purchases tax exempt as a qualified farmer or nurseryman shall provide their vendors with a copy of the certificate issued by the commissioner or a fully completed Streamlined Sales Tax certificate of exemption, which must include the exemption

authorization number included on the certificate issued by the commissioner, to evidence qualification for the exemption.

(e) Persons making purchases exempt from tax under this section shall keep records to establish that the property qualifies for the exemption. The purchaser is liable for tax, penalty, and interest for making nonqualifying purchases without payment of tax.

(f) Notwithstanding subdivision (a)(2), a person who qualifies as a manufacturer under § 67-6-206 does not qualify as a farmer or nurseryman under this section.

(g) Notwithstanding another law to the contrary, the exemption provided for in this section does not include automobiles, trucks, household appliances, and gasoline or diesel used in vehicles operated upon the public highways of this state.

(h) This section does not exempt tangible personal property, including building material, repair service, labor, warranty, software, or any other item taxable under this chapter from the tax imposed by § 67-6-209.

SECTION 2. This act takes effect January 1, 2023, the public welfare requiring it.